

**SLOVER & LOFTUS LLP**

**ATTORNEYS AT LAW**

**1224 SEVENTEENTH STREET, N W  
WASHINGTON, D C 20036-8008**

**WILLIAM L. SLOVER  
C. MICHAEL LOFTUS  
JOHN H. LE SEUR  
KELVIN J. DOWD  
ROBERT D. ROSENBERG  
CHRISTOPHER A. MILLS  
FRANK J. PERCOLIZZI  
ANDREW D. KOLESAR III  
PETER A. PFORL  
DANIEL M. JAFFE  
STEPHANIE P. LYONS  
JOSHUA M. HOFFMAN**

**OF COUNSEL  
DONALD G. AVERY**

**TELEPHONE  
(202) 347-7170**

**FAX  
(202) 347-3619**

**WRITER'S E-MAIL  
cam@sloverandloftus.com**

**March 12, 2009**

**BY E-FILE**

**The Honorable Anne K. Quinlan  
Secretary  
Surface Transportation Board  
395 E Street, SW  
Washington, D.C. 20423-0001**

**ENTERED  
Office of Proceedings**

**MAR 12 2008**

**Part of  
Public Record**

**Re: Docket No. 42110, Seminole Electric  
Cooperative, Inc. v CSX Transportation, Inc.**

**224669**

**Dear Secretary Quinlan**

**This letter supplements our letter of November 18, 2008 on behalf of Complainant Seminole Electric Cooperative, Inc. ("SECI"), concerning the applicability of the Complaint in this proceeding to the new common carrier rates and terms published in Defendant CSX Transportation, Inc.'s ("CSXT") Tariff CSXT-32531 (a copy of which was appended to our November 18 letter as Attachment A).**

**On or about February 11, 2009, CSXT published an amended version of Tariff CSXT-32531. The amended tariff, a copy of which is appended to this letter as Attachment B, added a new common carrier rate applicable to movements of coal from the origin of Gibcoal, IN (i.e., the Gibson County Mine near Princeton, IN) to SECI's Seminole Generating Station. This origin essentially replaces Sullivan, IN, which is one of the origins originally named in the Complaint.**

**The purpose of this letter is to advise the Board that, pursuant to Paragraph 19 of the Complaint, all of the rates and terms in the amended version of Tariff CSXT-32531 (Attachment B hereto) should be deemed subject to SECI's Complaint.**

The Honorable Anne K. Quinlan  
March 12, 2009  
Page 2

SECI requests that this letter and Attachment B be accepted for inclusion in the record of this proceeding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Chris Mills", written over the printed name.

Christopher A. Mills  
An Attorney for Seminole Electric  
Cooperative, Inc.

CAM:lad  
Enclosure

cc (w/enclosure): G. Paul Moates, Esq.  
Paul A. Hemmersbaugh, Esq.  
Matthew J. Warren, Esq.

**CSX TRANSPORTATION****CSXT-32531**

Common Carrier Rates on Coal  
For Seminole Electric Cooperative

Effective Date January 1, 2009  
Termination Date December 31, 2009

**1. Transportation Particulars: (Rates per net ton)**

Destination Bostwick, FL

Route CSXT Direct EVWR-Evansville-CSXT

**CSXT Origin Mines**

**(As defined in CSXT 8200)**

Dotiki, KY	\$41.68
Cardinal 9, KY	\$41.68
Cimarron, KY	\$41.68
Gibcoal, IN	\$44.93
Consol 95, WV	\$49.71
Bailey Mine, PA	\$51.66

**CSXT Origin Port**

Charleston, SC <sup>(1)</sup> \$28.48

**Other Railroad Origins**

Epworth, IL \$44.18\*

Commodity Coal (STCC NO. 11-212)

Equipment Railroad owned cars or Private 286,000 pound GWR capacity, rotary dump cars

Train Size: 100-Car unit train (Minimum)

Unloading Six (6) hour unloading at destination

Loading As governed by Tariff CSXT 8200 when on CSXT or Coal Tariff EVWR 4000 when on the EVWR. Twenty-four hours will apply at Charleston, SC

Demurrage: Subject to the provisions of Tariff CSXT 8200 or EVWR 4000

Fuel Surcharge The provisions of Tariff CSXT 8200 will not apply

\*CSXT will pay a revenue factor/division of revenue up to a maximum of \$1.80 per ton (subject to quarterly rate adjustment) to the EVWR under this joint line rate. CSXT will not be responsible for any accessorial charges, surcharges or any other charges assessed by the EVWR, or for any revenue requirements above \$1.80 per ton for transportation services provided pursuant to this joint line rate that may be assessed by the EVWR.

<sup>(1)</sup> the origin of Charleston, SC includes the Commodity of Petcoke (STCC NO. 29-913)

**2. Incorporation of Tariffs, Rules, ETC:**

This Price Sheet incorporates both CSXT and EVWR tariffs (i.e. Common Carrier Rates, including CSXT 8200-series and other service terms), statutes and regulations that would apply if this Price Sheet

did not exist, as of the date of shipment tender. The provisions of this Price Sheet control in case of any direct and express conflict.

**3. Payment:**

Subject to the provisions of Section 13, published in Tariff CSXT-8200. All shipments made under this publication will be "Collect".

**4. Bill of Lading:**

The provisions of the Uniform Straight Bill of Lading (Bill of Lading) are incorporated herein reference. Industry will add the following to each Bill of Lading:

**"Subject to CSXT-32531"**

**5. Damage Claims:**

Any claims for loss, damage or delay to Commodity shipments shall be governed by 49 USC 11707 and 49 CFR 1005.

**6. Reservation System – Trainload/Unit Train Service:**

The reservation system for trainload/unit train service as detailed in the CSXT-8200 series publication will apply.

**7. Quarterly Rate Adjustments:**

All rates are subject to quarterly increase or decrease based upon 100% of the Rail Cost Adjustment Factor – Unadjusted. Rate adjustments will commence April 1, 2009. Rates will not be adjusted below the base rates as detailed above.

**8. Car Supply and Private Car Compensation**

Industry may supply private equipment but must notify CSXT of intent to do so at least thirty (30) days prior to January 1, 2009. Industry must indicate the number of cars it intends to supply by car initial and number and must represent that it is entitled to receive mileage allowance payments for CSXT use of the cars. All cars are subject to OT-5 rules and regulations; any changes to Seminole's private car fleet requires updating of the list and OT-5 approval. Industry must also indicate its tonnage forecast by origin-destination pair. Carrier will pay a private car mileage allowance of \$0.19 per loaded mile based upon the mileage set out in Attachment 1. (Example: Dotiki-Bostwick allowance is \$0.19 multiplied by 812 miles without regard to actual loaded miles for any particular movement.) Industry may file for the mileage allowance within 15 days of the end of each month, using the attached Mileage Claim Form detailing the waybill date and number. CSXT has 45 days to pay the allowance to Industry. The mileage allowance will not escalate. The only eligible private car compensation will be under this provision and cars will not be subject to mileage or per diem payments under any other mechanism. This provision for private car compensation excludes any other form of payment. Private car compensation will be based on the mileages set out in Attachment 1 regardless of actual miles. AAR Car Hire Rate Master File must reflect a zero rate while in service on CSXT or EVWR.

**9. Common Carriage Application:**

The rates, terms and conditions as published herein (CSXT-32531) are established for the use and benefit of the Seminole Electric Cooperative in the production of electricity from the coal transported and subsequently burned as pulverized coal purchased by Seminole Electric Cooperative and may not be used by any other entity, transferred to any other entity or used in combination with any movement, including without limitation subsequent transportation by rail or truck from any of the stated destinations.

**The rates and conditions set out in this publication are only applicable to the origins specifically listed in this publication. Intermediate applications of origins not listed in CSXT-32531 will not apply. CSXT will add rates, terms, and conditions from other specific origins to this publication on specific request by Seminole Electric Cooperative.**

**The rates, terms, and conditions herein may be modified from time to time on statutory notice.**